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09/918,244	07/30/2001	Anil K. Kumar	ITL.0599US (PI 1740)	2277
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TROP PRUNER & HU, PC 1616 S. VOSS ROAD, SUITE 750 HOUSTON, TX 77057-2631			EXAMINER GREY, CHRISTOPHER P	
			ART UNIT 2616	PAPER NUMBER
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**BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES**

Application Number: 09/918,244  
Filing Date: July 30, 2001  
Appellant(s): KUMAR, ANIL K.

**MAILED**

**NOV 08 2007**

**Technology Center 2600**

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Anil K. Kumar  
For Appellant

**EXAMINER'S ANSWER**

This is in response to the appeal brief filed Feb 15, 2007 appealing from the Office  
action mailed May 3, 2007.

**(1) Real Party in Interest**

A statement identifying by name the real party in interest is contained in the brief.

**(2) Related Appeals and Interferences**

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

**(3) Status of Claims**

The statement of the status of claims contained in the brief is correct.

**(4) Status of Amendments After Final**

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

**(5) Summary of Claimed Subject Matter**

The summary of claimed subject matter contained in the brief is correct.

**(6) Grounds of Rejection to be Reviewed on Appeal**

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

**(7) Claims Appendix**

The copy of the appealed claims contained in the Appendix to the brief is correct.

**(8) Evidence Relied Upon**

Hosain US Patent No. 7,092,696

Walker US Patent No. 5,771,390

Toumainen US Patent No. 20010015963

**(9) Grounds of Rejection**

The following ground(s) of rejection are applicable to the appealed claims:

**Claims 1-4 and 6 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which appellant regards as the invention.**

Claim 1 is vague and indefinite because it is not clear the application software and mobility management state of what device is claimed. No device is claimed as having application software or mobility management state

In claim 2, are the applications the same as the software of claim 1. In addition, it is not clear what is meant by, "continuing with active packet data service applications" because no applications were previously claimed as being in use.

Claims 3, 4, 6 and 8 have similar ambiguity.

**Claims 5-8 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.**

Claim 5 discloses an article, which is descriptive material and non statutory because it is not capable of causing functional change. Such a claimed composition does not define any structural and functional interrelationship between the data structure and other claimed aspects of the invention which permit the data structures functionality to be realized.

In contrast, a claimed computer readable medium encoded with a data structure defines structural and functional interrelationships between the data structure and the computer software and hardware components which permit the data structures functionality to be realized, and is thus statutory.

**Claims 1, 2, 5, 6, 9, 14 are rejected under 35 U.S.C. 102(e) as being anticipated by Hosain et al. (US 7092696), hereinafter referred to as Hosain.**

**Claim 1, 5, 9** Hosain discloses automatically closing packet data service application software (Col 14 lines 21-27) if the mobility management state is idle (Col 8 lines 5-9).

**Claim 2, 6, 14** Hosain discloses wherein the mobile subscriber is in a packet data service network, continuing with active packet data service applications if the mobility management state is ready (Col 8 lines 6-7).

**Claim 10** Hosain discloses storing (Col 14 lines 41-44) applications (see fig 10, 608, 614). Hosain discloses supporting GSM communication and 3G communication (Col 5 lines 25-34, support of 2G and 3G is inherent within the art).

**Claim 11** Hosain discloses wherein said processor is an application processor (Col 14 lines 38-41).

**Claims 3, 7, 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hosain et al. (US 7092696) in view of Walker et al. (US 5771390), hereinafter referred to as Walker.**

**Claim 3, 7, 15** Hosain does not explicitly disclose if the mobile subscriber is on a packet data service network, suspending the current packet data service applications if the subscriber is in a standby state

Walker discloses a standby state transitioning into a suspend state (fig 3, 306, 320), where the suspend state consists of the management software shutting down various components of the computer system.

It would have been obvious to one of the ordinary skill in the art at the time of the invention to modify the procedure as disclosed by Hosain, to use a suspend state given a standby state and a period of inactivity. The motivation for this modification is for power management (Col 1 lines 10-15).

**Claims 4, 8, 12 and 13 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hosain et al. (US 7092696) as applied to claim 11 above, in view of Tuomainen et al. (US 20010015963), hereinafter referred to as Tuomainen.**

**Claim 4, 8, 16** Hosain does not specifically disclose closing all packet data service applications if a mobile subscriber is within the circuit data service network.

However, Tuomainen discloses switching off all functional blocks when not needed, where the functional blocks are dedicated for a packet switched network (paragraph 0025), therefore if the subscriber is in a circuit switched network, there is no need for some of these functional blocks to be on.

It would have been obvious to one of the ordinary skill in the art to modify the invention of Hosain to recognize that when a subscriber is in a circuit switched network, the subscriber is not connected to the mobility management of the packet switched network (paragraph 0021 ), therefore there is no need for packet network service data (paragraph 0025). The motivation for this modification is to reduce overall power consumption (paragraph 0025, reduce overall power consumption of the mobile station)

**Claim 12** Hosain does not specifically disclose a baseband processor.

Tuomainen discloses a baseband part (para 0025 lines 21-22).

It would have been obvious to one of the ordinary skill in the art at the time of the invention to modify mobile device as disclosed by Hosain to include a baseband processor as disclosed by Tuomainen, where the baseband part may be used for DSP (para 0025 lines 22-23).

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**Claim 13** Hosain does not specifically disclose the baseband processor storing a call model.

It would have been obvious to one of the ordinary skill in the art at the time of the invention that a baseband part, such as that disclosed within the rejection of claim 12 may be configured to operate a mobility management function, such as that disclosed in Hosain. The motivation for this configuration is to prevent frequency shifting of sent signals.

**(10) Response to Argument**

**(A)** Appellant's arguments, see page 10 (A) filed February 15, 2007 with respect to Claims 1-4, 6 and 8 being rejected under 35 U.S.C.112, 2<sup>nd</sup> paragraph have been fully considered and are not persuasive. The appellants arguments in the second paragraph on page 10 clearly states that the claim does not require that they be the same and thus they do not necessarily have to be the same. From this statement, the appellant admits to the claim being vague and indefinite, as the appellant admits that the claim does not distinctly require, or not require the elements to be the same.

**(B)** The appellant argued Claims 5-8 being rejected under 35 U.S.C 101. Arguments are persuasive, and the rejection has been withdrawn.



**(C), (D) and (E)** The appellant argued that the cited art does not disclose closing packet data service application software when a mobility management state on a mobile subscriber is idle.

In response to appellant's argument that the references fails to show mobility management state on a mobile subscriber, it is noted that the features upon which appellant relies (i.e., mobile subscriber) is not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

In response to the appellants arguments that the cited art does not disclose turning of packet data service application software when a mobility management state is idle, the examiner maintains that Hosain discloses the appellants claimed limitations within its broadest interpretation, wherein Hosain discloses a packet data service, wherein the mobility management is a form of packet data service **(Col 7 lines 63-67, mobility management, wherein any form of service within a packet data network is equivalent to a packet data service)**. Hosain also discloses a software application for performing the function of mobility management, hence the function of packet data service **(Col 14 lines 21-27, software application routines for performing)**. Hosain also discloses the mobility management state of a mobile node being determined to be in an idle mobility state, and hence turning off the mobility management **(Col 8 lines 7-9, when the mobile node is in an idle state, the mobility management is turned off)**.

The appellant also argues that just because a mobility management is turned off does not mean that a packet data service application is turned off. The examiner contends that because the mobility management is a packet data service, and controlled by the application software as disclosed above, when the mobility management is turned off, the software is being turned off for that packet data service.

The appellant argues that there is no basis for asserting that turning off the mobility management involves turning off the corresponding component. The examiner contends that Hosain gives a clear indication of the necessity of turning off the corresponding component, wherein Hosain discloses turning off the mobility management in order to avoid additional charges for using the mobility management component in the idle state **(Col 8 lines 9-13, may be charged for mobility management based on an amount of time used)**.

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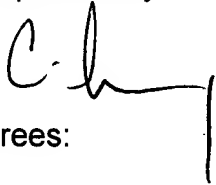
**(11) Related Proceeding(s) Appendix**

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

Christopher Grey



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